

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No. _____

Purchased _____

-----X
MARIA CARABALLO, ALEXIS SANCHEZ AND
HERMES SANTIAGO,

Plaintiffs

-against-

VERIFIED COMPLAINT

THE CITY OF NEW YORK, P.O. TATIANA CRUZ
OF NARCB BX, SHIELD #400, TAX ID #950253, P.O.
CHRISTOPHER CHIN OF THE 46 PCT, SHIELD
#20543, TAX ID #958402, P.O. FAUSTO RAMIREZ
OF THE 46 PCT, SHIELD #10218, TAX ID #956787,
OTHER NEW YORK CITY POLICE OFFICERS ON
SUMMONS NUMBERS #2016SX049182,
#2016SX049183, #2016SX049022 #2016SX049219 AND
DOCKET NO. 2016BX036246 WHOSE NAMES ARE
NOT KNOWN AT THIS TIME N/H/A JOHN/JANE
DOE I-III, AS IT PERTAINS TO THE INCIDENT
THAT AROSE ON AUGUST 21, 2016 AND NO
OTHER,

Defendants.

-----X

MARIA CARABALLO, ALEXIS SANCHEZ and HERMES SANTIAGO, by their
attorneys, JOHN R. DEPAOLA & ASSOCIATES PLLC, respectfully alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. At all times mentioned, Plaintiff MARIA CARABALLO was a resident of
Bronx County, City and State of New York.
2. At all times mentioned, Defendant CITY OF NEW YORK, was and is a
municipal corporation duly organized and existing by virtue of the laws of
the State of New York.
3. On or about the 18th day of November, 2016 and within ninety (90) days
after some of the claims herein arose, the Plaintiff served a Notice of Claim
in writing sworn to on their behalf upon the Defendant CITY OF NEW

YORK, by delivering a copy thereof in duplicate to the officer designated to receive such process personally, which Notice of Claim advised the Defendant CITY OF NEW YORK, of the nature, place, time and manner in which the claim arose, the items of damage and injuries sustained so far as was then determinable. On or about March 15, 2017, Plaintiff served a Supplemental Notice adding the claim for malicious prosecution which accrued on October 19, 2016 and January 4, 2017.

4. At least thirty (30) days have elapsed since the service of the claim prior to the commencement of this action and adjustment of payment thereof has been neglected or refused, and this action has been commenced within one year and ninety (90) days after the happening of the event upon which the claims are based.
5. The Plaintiff has complied with the request of the municipal Defendant's for an oral examination pursuant to Section 50-H of the General Municipal Law and/or the Public Authorities Law and/or no such request was made within the applicable period.
6. Upon information and belief, at all times mentioned, Defendants P.O. TATIANA CRUZ OF NARCBBX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183, #2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246 WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A JOHN/JANE DOE I-III, were and

are police officers of the Defendant City of New York, and at all times herein were acting in such capacity as the agents, servants and employees of the Defendant, **THE CITY OF NEW YORK**.

7. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York, the Defendants jointly and severally in their capacity as police officers, wrongfully touched, grabbed, handcuffed and seized the Plaintiff **MARIA CARABALLO**, in an excessive manner about her person, causing her physical pain and mental suffering. At no time did the Defendants have legal cause to grab, handcuff seize or touch the Plaintiff, nor did the Plaintiff consent to this illegal touching nor was it privileged by law.

AS AND FOR A SECOND CAUSE OF ACTION

8. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "7" with full force and effect as though set forth at length herein.
9. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York, the Defendants, jointly and severally did place Plaintiff **MARIA CARABALLO** in imminent fear of physical contact by approaching the Plaintiff with their loaded firearms, outstretched limbs and other objects which they used to physically seize, strike and restrain the Plaintiff. All of the above actions placed the Plaintiff in imminent fear of physical contact. At no time did the Plaintiff consent to the unlawful actions of the Defendants.

AS AND FOR A THIRD CAUSE OF ACTION

10. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "9" with full force and effect as though set forth at length herein.
11. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York, the Defendants, jointly and severally without any warrant, order or other legal process and without any legal right, wrongfully and unlawfully arrested the Plaintiff, restrained her and her liberty and then took her into custody to a police station in the County of Bronx and there charged her with the violations and/or crimes on Summons Numbers 2016SX049182, 2016SX049183 and Docket No. 2016BX036246. The Plaintiff was thereafter held in custody over the course of two (2) days or approximately thirty-three (33) hours until she was released. The Defendants intentionally confined the Plaintiff without her consent and the confinement was not otherwise privileged by law and, at all times, the Plaintiff was conscious of her confinement.

AS AND FOR A FOURTH CAUSE OF ACTION

12. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "11" with full force and effect as though set forth at length herein.
13. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York, the Defendants, jointly and severally without any valid warrant, order or other legal process and without any legal right, wrongfully and unlawfully imprisoned the

Plaintiff, restrained her and her liberty and then took her into custody and causing her to be incarcerated as a detainee in the City of New York's police jail. The Plaintiff was thereafter held in custody over the course of two (2) days or approximately thirty-three (33) hours before she was released. The Defendants intentionally confined the Plaintiff without her consent and the confinement was not otherwise privileged by law and, at all times, the Plaintiff was conscious of her confinement.

AS AND FOR A FIFTH CAUSE OF ACTION

14. Plaintiff incorporates, repeats, and re-alleges all of the allegations contained in Paragraphs "1" through "13" with full force and effect as though set forth at length herein.
15. Upon information and belief, on or about August 21, 2016 and from that time until the dismissal of charges on or about January 4, 2017, which was a favorable termination for the accused by the Honorable Judge presiding at Part SAP2 (Summons Part), Bronx County Criminal Court, Defendants **THE CITY OF NEW YORK, P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183, #2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246 WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A JOHN/JANE DOE I-III**, deliberately and maliciously prosecuted Plaintiff **MARIA CARABALLO**, an innocent woman without any probable

cause whatsoever, by filing or causing a criminal court complaint to be filed in the Criminal Court of the City of New York, Bronx County, for the purpose of falsely accusing the plaintiff of violations of the criminal laws of the State of New York.

16. The Defendants, jointly and severally, their agents, servants or employees failed to take reasonable steps to stop the prosecution of the Plaintiff and instead maliciously and deliberately provided false and/or incomplete information to the District Attorney's office and/or clerk's office to induce prosecution of the Plaintiff and due to the absence of probable cause malice can be inferred.
17. The commencement of these criminal proceedings under Summons Numbers 2016SX049182 and 2016SX049183 was malicious and began in malice and without probable cause, so that the proceedings could succeed by the Defendants.
18. As a result of the malicious prosecution, Plaintiff was deprived of her liberty and suffered the humiliation, mental anguish, indignity and frustration of an unjust criminal prosecution. The Plaintiff made multiple court appearances to defend her liberty against these unjust charges.

AS AND FOR A SIXTH CAUSE OF ACTION

19. Plaintiff incorporates, repeats, and re-alleges all of the allegations contained in Paragraphs "1" through "18" with full force and effect as though set forth at length herein.
20. Upon information and belief, on or about August 21, 2016 and from that time until the dismissal of charges on or about October 19, 2016, which was

a favorable termination for the accused by the Honorable Judge Wilson presiding at Part AP4, Bronx County Criminal Court, Defendants THE CITY OF NEW YORK, P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183, #2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246 WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A JOHN/JANE DOE I-III, deliberately and maliciously prosecuted Plaintiff MARIA CARABALLO, an innocent woman without any probable cause whatsoever, by filing or causing a criminal court complaint to be filed in the Criminal Court of the City of New York, Bronx County, for the purpose of falsely accusing the plaintiff of violations of the criminal laws of the State of New York.

21. The Defendants, jointly and severally, their agents, servants or employees failed to take reasonable steps to stop the prosecution of the Plaintiff and instead maliciously and deliberately provided false and/or incomplete information to the District Attorney's office and/or clerk's office to induce prosecution of the Plaintiff and due to the absence of probable cause malice can be inferred.
22. The commencement of these criminal proceedings under Docket Number 2016BX036246 was malicious and began in malice and without probable cause, so that the proceedings could succeed by the Defendants.

23. As a result of the malicious prosecution, Plaintiff was deprived of her liberty and suffered the humiliation, mental anguish, indignity and frustration of an unjust criminal prosecution. The Plaintiff made multiple court appearances to defend her liberty against these unjust charges.

AS AND FOR A SEVENTH CAUSE OF ACTION

(This Cause of action only applies against the Individually named Police Officers not the City of New York or officers sued in their official capacity)

24. Plaintiff incorporates, repeats, and re-alleges all of the allegations contained in Paragraphs "1" through "23" with full force and effect as though set forth at length herein.
25. Defendants P.O. TATIANA CRUZ OF NARCBX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183, #2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246 WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A JOHN/JANE DOE I-III, were at all times relevant, duly appointed and acting officers of the City of New York Police Department.
26. At all times mentioned herein, said police officers were acting under color of law, to wit: the statutes, ordinances, regulations, policies and customs and usage of the State of New York and/or City of New York.

27. Plaintiff **MARIA CARABALLO** is and at all times relevant herein, a citizen of the United States and a resident of Bronx County in the State of New York and brings this cause of action pursuant to 42 United States Code, Section 1983 and 42 United States Code, Section 1988.
28. The Defendant **CITY OF NEW YORK** is a municipality duly incorporated under the laws of the State of New York.
29. On or about August 21, 2016, the Defendants, armed police, while effectuating the seizure of the Plaintiff **MARIA CARABALLO**, did search, seize, assault and commit a battery and grab the person of the Plaintiff without a court authorized arrest or search warrant. They did physically seize the person of the Plaintiff during the arrest process in an unlawful and excessive manner. The Plaintiff was falsely arrested, unlawfully imprisoned and maliciously prosecuted without the Defendants possessing probable cause to do so. The Officers involved in the arrest of the Plaintiff and/or communicated with the Bronx District Attorney's Office were **P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, and P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787**. The named officers along with those named as **"JOHN/JANE DOE I-III"** assisted in the investigation that led to the arrest of the Plaintiff. Plaintiff is unaware of the name of the officer who actually placed her in handcuffs. This officer grabbed the person of the Plaintiff and handcuffed her. Plaintiff had multiple assault and batteries committed to

her person including but not limited to being pushed into a car and had her arm grabbed. The handcuffs were placed on Plaintiff's wrists so tight that Plaintiff's wrists turned red. Due to the lack of probable cause to arrest Plaintiff, malice can be inferred.

30. The above action of the Defendants resulted in the Plaintiff being deprived of the following rights protected under the United States Constitution:
- a. Freedom from assault to her person;
 - b. Freedom from battery to her person;
 - c. Freedom from illegal search and seizure;
 - d. Freedom from false arrest;
 - e. Freedom from malicious prosecution on the Summons part and criminal court dockets;
 - f. Freedom from the use of excessive force during the arrest process;
 - g. Freedom from unlawful imprisonment;
 - h. Freedom from loss of her liberty.
 - i. Freedom from being illegally searched.
31. The Defendants subjected the Plaintiff to such deprivations, either in a malicious or reckless disregard of the Plaintiff's rights or with deliberate indifference to those rights protected under the Fourth and Fourteenth Amendments of the United States Constitution.
32. The direct and proximate result of the Defendants' acts are that the Plaintiff has suffered severe and permanent injuries of a psychological nature. She was forced to endure pain and suffering, all to her detriment.

AS AND FOR A EIGHTH CAUSE OF ACTION

33. Plaintiff incorporates, repeats and re-alleges all of the allegations contained in Paragraphs "1" through "32" with full force and effect as though set forth at length herein.
34. Defendant **CITY OF NEW YORK** has grossly failed to train and adequately supervise its police officers in the fundamental law of arrest, search and seizure especially when its police officers are not in possession of a court authorized arrest warrant and where an individual, especially as here, has not committed a crime and has not resisted arrest, that its police officers should only use reasonable force to effectuate an arrest and the arrest should be based on probable cause.
35. **THE CITY OF NEW YORK** was negligent by failing to implement a policy with its Police Department and instruct police officers who, absent the consent of the Plaintiff (or similarly situated individuals) or without the possession of a court authorized arrest a search warrant, said police officers of the City of New York are not to arrest individuals such as the Plaintiff here where probable cause is lacking and the use of force should only be reasonable when an individual resists arrest and should not be used where a criminal defendant is not resisting arrest.
36. **THE CITY OF NEW YORK** is negligent due to its failure to implement a policy with its Police Department or actively enforce the law, if any of the following are lacking:

1. Probable cause must be present before an individual such as the Plaintiff herein can be arrested.
 2. Excessive force cannot be used against an individual who does not physically resist arrest.
 3. An individual who sustains physical injury at the hands of the police during the arrest process should receive prompt medical attention.
37. The foregoing acts, omissions and systemic failures are customs and policies of the **CITY OF NEW YORK** which caused the police officers to falsely arrest, maliciously prosecute, seize illegally and search the Plaintiff commit an assault/battery to her person and denied her prompt medical attention under the belief that they would suffer no disciplinary actions for their failure to take proper or prudent steps in this case.

AS AND FOR AN NINTH CAUSE OF ACTION

38. Plaintiff repeats, reiterates, and re-alleges all of the allegations contained in paragraphs "1" through "37" as it set forth at length herein.
39. Defendant **CITY OF NEW YORK** was negligent in that prior to and at the time of the acts complained of herein, due to the prior history of the Police Officer Defendants, knew or should have known of the bad disposition of said Defendants or had knowledge of facts that would put a reasonably prudent employer on inquiry concerning their bad disposition and the fact that these officers were not suitable to be hired and employed by the **CITY OF NEW YORK** and that due to their lack of training, these officers should have had adequate supervision so that they would not arrest innocent

individuals nor use excessive force during the arrest process.

AS AND FOR A TENTH CAUSE OF ACTION

40. At all times mentioned, Plaintiff **ALEXIS SANCHEZ** was a resident of Bronx County, City and State of New York.
41. At all times mentioned, Defendant **CITY OF NEW YORK**, was and is a municipal corporation duly organized and existing by virtue of the laws of the State of New York.
42. On or about the 18th day of November 2016 and within ninety (90) days after some of the claims herein arose, the Plaintiff served a Notice of Claim in writing sworn to on their behalf upon the Defendant **CITY OF NEW YORK**, by delivering a copy thereof in duplicate to the officer designated to receive such process personally, which Notice of Claim advised the Defendant **CITY OF NEW YORK**, of the nature, place, time and manner in which the claim arose, the items of damage and injuries sustained so far as was then determinable. On or about March 15, 2017, Plaintiff served a Supplemental Notice adding the claim for malicious prosecution which accrued on January 4, 2017.
43. At least thirty (30) days have elapsed since the service of the claim prior to the commencement of this action and adjustment of payment thereof has been neglected or refused, and this action has been commenced within one year and ninety (90) days after the happening of the event upon which the claims are based.

44. The Plaintiff has complied with the request of the municipal Defendant's for an oral examination pursuant to Section 50-H of the General Municipal Law and/or the Public Authorities Law and/or no such request was made within the applicable period.
45. Upon information and belief, at all times mentioned, Defendants **P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183, #2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246 WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A JOHN/JANE DOE I-III**, were and are police officers of the Defendant City of New York, and at all times herein were acting in such capacity as the agents, servants and employees of the Defendant, **THE CITY OF NEW YORK**.
46. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York the Defendants jointly and severally in their capacity as police officers, wrongfully touched, grabbed, handcuffed and seized the Plaintiff **ALEXIS SANCHEZ**, in an excessive manner about his person, causing him physical pain and mental suffering. At no time did the Defendants have legal cause to grab, handcuff seize or touch the Plaintiff, nor did the Plaintiff consent to this illegal touching nor was it privileged by law.

AS AND FOR A ELEVENTH CAUSE OF ACTION

47. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "46" with full force and effect as though set forth at length herein.
48. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York the Defendants, jointly and severally did place Plaintiff **ALEXIS SANCHEZ** in imminent fear of physical contact by approaching the Plaintiff with their loaded firearms, outstretched limbs and other objects which they used to physically seize, strike and restrain the Plaintiff. All of the above actions placed the Plaintiff in imminent fear of physical contact. At no time did the Plaintiff consent to the unlawful actions of the Defendants.

AS AND FOR A TWELFTH CAUSE OF ACTION

49. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "48" with full force and effect as though set forth at length herein.
50. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York the Defendants, jointly and severally without any warrant, order or other legal process and without any legal right, wrongfully and unlawfully arrested the Plaintiff, restrained him and his liberty and then took him into custody to a police station in the County of Bronx and there charged him with the violations on Summons No. 2016SX049022. The Plaintiff was thereafter held in custody

over the course of two (2) days or approximately twenty-seven (27) hours until he was released. The Defendants intentionally confined the Plaintiff without his consent and the confinement was not otherwise privileged by law and, at all times, the Plaintiff was conscious of his confinement.

AS AND FOR A THIRTEENTH CAUSE OF ACTION

51. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "50" with full force and effect as though set forth at length herein.
52. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York the Defendants, jointly and severally without any valid warrant, order or other legal process and without any legal right, wrongfully and unlawfully imprisoned the Plaintiff, restrained him and his liberty and then took him into custody and causing him to be incarcerated as a detainee in the City of New York's police jail. The Plaintiff was thereafter held in custody over the course of two (2) days or approximately twenty-seven (27) hours before he was released. The Defendants intentionally confined the Plaintiff without his consent and the confinement was not otherwise privileged by law and, at all times, the Plaintiff was conscious of his confinement.

AS AND FOR A FOURTEENTH CAUSE OF ACTION

53. Plaintiff incorporates, repeats, and re-alleges all of the allegations contained in Paragraphs "1" through "52" with full force and effect as though set forth at length herein.

54. Upon information and belief, on or about August 21, 2016 and from that time until the dismissal of charges on or about January 4, 2017 which was a favorable termination for the accused by the Honorable Judge presiding at SAP2, Bronx County Criminal Court, Defendants THE CITY OF NEW YORK, P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183, #2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246 WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A JOHN/JANE DOE I-III, deliberately and maliciously prosecuted Plaintiff ALEXIS SANCHEZ, an innocent man without any probable cause whatsoever, by filing or causing a criminal court complaint to be filed in the Criminal Court of the City of New York, Bronx County, for the purpose of falsely accusing the plaintiff of violations of the criminal laws of the State of New York.
55. The Defendants, jointly and severally, their agents, servants or employees failed to take reasonable steps to stop the prosecution of the Plaintiff and instead maliciously and deliberately provided false and/or incomplete information to the District Attorney's office and/or clerk's office to induce prosecution of the Plaintiff and due to the absence of probable cause malice can be inferred.

56. The commencement of these criminal proceedings under Docket No. 2016SX049022 was malicious and began in malice and without probable cause, so that the proceedings could succeed by the Defendants.
57. As a result of the malicious prosecution, Plaintiff was deprived of his liberty and suffered the humiliation, mental anguish, indignity and frustration of an unjust criminal prosecution. The Plaintiff made multiple court appearances to defend his liberty against these unjust charges.

AS AND FOR A FIFTEENTH CAUSE OF ACTION

(This Cause of action only applies against the Individually named Police Officers not the City of New York or officers sued in their official capacity)

58. Plaintiff incorporates, repeats, and re-alleges all of the allegations contained in Paragraphs "1" through "57" with full force and effect as though set forth at length herein.
59. Defendants P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183, #2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246 WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A JOHN/JANE DOE I-III, were at all times relevant, duly appointed and acting officers of the City of New York Police Department.

60. At all times mentioned herein, said police officers were acting under color of law, to wit: the statutes, ordinances, regulations, policies and customs and usage of the State of New York and/or City of New York.
61. Plaintiff **ALEXIS SANCHEZ** is and at all times relevant herein, a citizen of the United States and a resident of Bronx County in the State of New York and brings this cause of action pursuant to 42 United States Code, Section 1983 and 42 United States Code, Section 1988.
62. The Defendant **CITY OF NEW YORK** is a municipality duly incorporated under the laws of the State of New York.
63. On or about August 21, 2016, the Defendants, armed police, while effectuating the seizure of the Plaintiff **ALEXIS SANCHEZ**, did search, seize, assault and commit a battery and grab the person of the Plaintiff without a court authorized arrest or search warrant. They did physically seize the person of the Plaintiff during the arrest process in an unlawful and excessive manner. The Plaintiff was falsely arrested, unlawfully imprisoned and maliciously prosecuted without the Defendants possessing probable cause to do so. The Officers involved in the arrest of the Plaintiff and/or communicated with the Bronx District Attorney's Office were **P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, and P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787**. The named officers along with those named as **"JOHN/JANE DOE I-III"** assisted in the investigation that led to the arrest

of the Plaintiff. Plaintiff is unaware of the name of the officer who actually placed him in handcuffs. This officer grabbed the person of the Plaintiff and handcuffed him. Plaintiff had multiple assault and batteries committed against him including but not limited to being pushed against a police vehicle. The handcuffs were placed on Plaintiff's wrists so tight that Plaintiff's wrists turned red. Due to the lack of probable cause to arrest Plaintiff, malice can be inferred.

64. The above action of the Defendants resulted in the Plaintiff being deprived of the following rights protected under the United States Constitution:
- a. Freedom from assault to his person;
 - b. Freedom from battery to his person;
 - c. Freedom from illegal search and seizure;
 - d. Freedom from false arrest;
 - e. Freedom from malicious prosecution;
 - f. Freedom from the use of excessive force during the arrest process;
 - g. Freedom from unlawful imprisonment;
 - h. Freedom from loss of his liberty.
 - i. Freedom from being illegally searched.
65. The Defendants subjected the Plaintiff to such deprivations, either in a malicious or reckless disregard of the Plaintiff's rights or with deliberate indifference to those rights protected under the Fourth and Fourteenth Amendments of the United States Constitution.

66. The direct and proximate result of the Defendants' acts are that the Plaintiff has suffered severe and permanent injuries of a psychological nature. He was forced to endure pain and suffering, all to his detriment.

AS AND FOR A SIXTEENTH CAUSE OF ACTION

67. Plaintiff incorporates, repeats and re-alleges all of the allegations contained in Paragraphs "1" through "66" with full force and effect as though set forth at length herein.
68. Defendant **CITY OF NEW YORK** has grossly failed to train and adequately supervise its police officers in the fundamental law of arrest, search and seizure especially when its police officers are not in possession of a court authorized arrest warrant and where an individual, especially as here, has not committed a crime and has not resisted arrest, that its police officers should only use reasonable force to effectuate an arrest and the arrest should be based on probable cause.
69. **THE CITY OF NEW YORK** was negligent by failing to implement a policy with its Police Department and instruct police officers who, absent the consent of the Plaintiff (or similarly situated individuals) or without the possession of a court authorized arrest a search warrant, said police officers of the City of New York are not to arrest individuals such as the Plaintiff here where probable cause is lacking and the use of force should only be reasonable when an individual resists arrest and should not be used where a criminal defendant is not resisting arrest.

70. **THE CITY OF NEW YORK** is negligent due to its failure to implement a policy with its Police Department or actively enforce the law, if any of the following are lacking:
1. Probable cause must be present before an individual such as the Plaintiff herein can be arrested.
 2. Excessive force cannot be used against an individual who does not physically resist arrest.
 3. An individual who sustains physical injury at the hands of the police during the arrest process should receive prompt medical attention.
71. The foregoing acts, omissions and systemic failures are customs and policies of the **CITY OF NEW YORK** which caused the police officers to falsely arrest, maliciously prosecute, seize illegally and search the Plaintiff commit an assault/battery to his person and denied him prompt medical attention under the belief that they would suffer no disciplinary actions for their failure to take proper or prudent steps in this case.

AS AND FOR AN SEVENTEENTH CAUSE OF ACTION

72. Plaintiff repeats, reiterates, and re-alleges all of the allegations contained in paragraphs "1" through "71" as it set forth at length herein.
73. Defendant **CITY OF NEW YORK** was negligent in that prior to and at the time of the acts complained of herein, due to the prior history of the Police Officer Defendants, knew or should have known of the bad disposition of said Defendants or had knowledge of facts that would put a reasonably prudent employer on inquiry concerning their bad disposition and the fact

that these officers were not suitable to be hired and employed by the **CITY OF NEW YORK** and that due to their lack of training, these officers should have had adequate supervision so that they would not arrest innocent individuals nor use excessive force during the arrest process.

AS AND FOR A EIGHTEENTH CAUSE OF ACTION

74. At all times mentioned, Plaintiff **HERMES SANTIAGO** was a resident of Bronx County, City and State of New York.
75. At all times mentioned, Defendant **CITY OF NEW YORK**, was and is a municipal corporation duly organized and existing by virtue of the laws of the State of New York.
76. On or about the 18th day of November 2016 and within ninety (90) days after some of the claims herein arose, the Plaintiff served a Notice of Claim in writing sworn to on their behalf upon the Defendant **CITY OF NEW YORK**, by delivering a copy thereof in duplicate to the officer designated to receive such process personally, which Notice of Claim advised the Defendant **CITY OF NEW YORK**, of the nature, place, time and manner in which the claim arose, the items of damage and injuries sustained so far as was then determinable. On or about March 15, 2017, Plaintiff served a Supplemental Notice adding the claim for malicious prosecution which accrued on January 9, 2017.
77. At least thirty (30) days have elapsed since the service of the claim prior to the commencement of this action and adjustment of payment thereof has been neglected or refused, and this action has been commenced within one

year and ninety (90) days after the happening of the event upon which the claims are based.

78. The Plaintiff has complied with the request of the municipal Defendant's for an oral examination pursuant to Section 50-H of the General Municipal Law and/or the Public Authorities Law and/or no such request was made within the applicable period.
79. Upon information and belief, at all times mentioned, Defendants **DET. ABDIEL ANDERSON OF NARCB BX, SHIELD #1429, TAX ID P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183, #2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246 WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A JOHN/JANE DOE I-III**, were and are police officers of the Defendant City of New York, and at all times herein were acting in such capacity as the agents, servants and employees of the Defendant, **THE CITY OF NEW YORK**.
80. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York the Defendants jointly and severally in their capacity as police officers, wrongfully touched, grabbed, handcuffed and seized the Plaintiff **HERMES SANTIAGO**, in an excessive manner about his person, causing him physical pain and mental

suffering. At no time did the Defendants have legal cause to grab, handcuff seize or touch the Plaintiff, nor did the Plaintiff consent to this illegal touching nor was it privileged by law.

AS AND FOR A NINETEENTH CAUSE OF ACTION

81. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "80" with full force and effect as though set forth at length herein.
82. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York the Defendants, jointly and severally did place Plaintiff **HERMES SANTIAGO** in imminent fear of physical contact by approaching the Plaintiff with their loaded firearms, outstretched limbs and other objects which they used to physically seize, strike and restrain the Plaintiff. All of the above actions placed the Plaintiff in imminent fear of physical contact. At no time did the Plaintiff consent to the unlawful actions of the Defendants.

AS AND FOR A TWENTIETH CAUSE OF ACTION

83. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "82" with full force and effect as though set forth at length herein.
84. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York the Defendants, jointly and severally without any warrant, order or other legal process and without any legal right, wrongfully and unlawfully arrested the Plaintiff,

restrained him and his liberty and then took him into custody to a police station in the County of Bronx and there charged him with the violations on Summons No. 2016SX049219. The Plaintiff was thereafter held in custody over the course of approximately two-three (2-3) hours until he was released. The Defendants intentionally confined the Plaintiff without his consent and the confinement was not otherwise privileged by law and, at all times, the Plaintiff was conscious of his confinement.

AS AND FOR A TWENTY-FIRST CAUSE OF ACTION

85. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "84" with full force and effect as though set forth at length herein.
86. On or about August 21, 2016, at approximately 2:30 A.M., in the vicinity of 1730 Harrison Avenue, County of Bronx, State of New York the Defendants, jointly and severally without any valid warrant, order or other legal process and without any legal right, wrongfully and unlawfully imprisoned the Plaintiff, restrained him and his liberty and then took him into custody and causing him to be incarcerated as a detainee in the City of New York's police jail. The Plaintiff was thereafter held in custody over the course of approximately two-three (2-3) hours before he was released. The Defendants intentionally confined the Plaintiff without his consent and the confinement was not otherwise privileged by law and, at all times, the Plaintiff was conscious of his confinement.

AS AND FOR A TWENTY-SECOND CAUSE OF ACTION

87. Plaintiff incorporates, repeats, and re-alleges all of the allegations contained in Paragraphs "1" through "86" with full force and effect as though set forth at length herein.
88. Upon information and belief, on or about August 21, 2016 and from that time until the dismissal of charges on or about January 9, 2017 which was a favorable termination for the accused by the Honorable Judge, in Part SAP2 (Summons Part) presiding at Bronx County Criminal Court, Defendants **THE CITY OF NEW YORK, P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183, #2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246 WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A JOHN/JANE DOE I-III**, deliberately and maliciously prosecuted Plaintiff **HERMES SANTIAGO**, an innocent man without any probable cause whatsoever, by filing or causing a criminal court complaint to be filed in the Criminal Court of the City of New York, Bronx County, for the purpose of falsely accusing the plaintiff of violations of the criminal laws of the State of New York.
89. The Defendants, jointly and severally, their agents, servants or employees failed to take reasonable steps to stop the prosecution of the Plaintiff and

instead maliciously and deliberately provided false and/or incomplete information to the District Attorney's office and/or clerk's office to induce prosecution of the Plaintiff and due to the absence of probable cause malice can be inferred.

90. The commencement of these criminal proceedings under Summons No. 2016SX049219 was malicious and began in malice and without probable cause, so that the proceedings could succeed by the Defendants.
91. As a result of the malicious prosecution, Plaintiff was deprived of his liberty and suffered the humiliation, mental anguish, indignity and frustration of an unjust criminal prosecution. The Plaintiff made multiple court appearances to defend his liberty against these unjust charges.

AS AND FOR A TWENTY-THIRD CAUSE OF ACTION

(This Cause of action only applies against the Individually named Police Officers not the City of New York or officers sued in their official capacity)

92. Plaintiff incorporates, repeats, and re-alleges all of the allegations contained in Paragraphs "1" through "91" with full force and effect as though set forth at length herein.
93. Defendants P.O. TATIANA CRUZ OF NARCBX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183,

#2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246

WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A

JOHN/JANE DOE I-III, were at all times relevant, duly appointed and acting officers of the City of New York Police Department.

94. At all times mentioned herein, said police officers were acting under color of law, to wit: the statutes, ordinances, regulations, policies and customs and usage of the State of New York and/or City of New York.
95. Plaintiff **HERMES SANTIAGO** is and at all times relevant herein, a citizen of the United States and a resident of Bronx County in the State of New York and brings this cause of action pursuant to 42 United States Code, Section 1983 and 42 United States Code, Section 1988.
96. The Defendant **CITY OF NEW YORK** is a municipality duly incorporated under the laws of the State of New York.
97. On or about August 21, 2016, the Defendants, armed police, while effectuating the seizure of the Plaintiff **HERMES SANTIAGO**, did search, seize, assault and commit a battery and grab the person of the Plaintiff without a court authorized arrest or search warrant. They did physically seize the person of the Plaintiff during the arrest process in an unlawful and excessive manner. The Plaintiff was falsely arrested, unlawfully imprisoned and maliciously prosecuted without the Defendants possessing probable cause to do so. The Officers involved in the arrest of the Plaintiff and/or communicated with the Bronx District Attorney's Office were **P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O.**

CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, and P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787. The named officers along with those named as "JOHN/JANE DOE I-III" assisted in the investigation that led to the arrest of the Plaintiff. Plaintiff is unaware of the name of the officer who actually placed him in handcuffs. This officer grabbed the person of the Plaintiff and handcuffed him. Plaintiff had multiple assault and batteries committed against him including but not limited to being slammed to the ground, hitting his forehead and shoulder and being kicked. The handcuffs were placed on Plaintiff's wrists so tight that Plaintiff's wrists turned red. Plaintiff went to Lincoln Hospital for treatment of injuries sustained during the false arrest. Due to the lack of probable cause to arrest Plaintiff, malice can be inferred.

98. The above action of the Defendants resulted in the Plaintiff being deprived of the following rights protected under the United States Constitution:
- a. Freedom from assault to his person;
 - b. Freedom from battery to his person;
 - c. Freedom from illegal search and seizure;
 - d. Freedom from false arrest;
 - e. Freedom from malicious prosecution;
 - f. Freedom from the use of excessive force during the arrest process;
 - g. Freedom from unlawful imprisonment;
 - h. Freedom from loss of his liberty.

i. Freedom from being illegally searched.

99. The Defendants subjected the Plaintiff to such deprivations, either in a malicious or reckless disregard of the Plaintiff's rights or with deliberate indifference to those rights protected under the Fourth and Fourteenth Amendments of the United States Constitution.
100. The direct and proximate result of the Defendants' acts are that the Plaintiff has suffered severe and permanent injuries of a psychological nature. He was forced to endure pain and suffering, all to his detriment.

AS AND FOR A TWENTY-FOURTH CAUSE OF ACTION

101. Plaintiff incorporates, repeats and re-alleges all of the allegations contained in Paragraphs "1" through "100" with full force and effect as though set forth at length herein.
102. Defendant **CITY OF NEW YORK** has grossly failed to train and adequately supervise its police officers in the fundamental law of arrest, search and seizure especially when its police officers are not in possession of a court authorized arrest warrant and where an individual, especially as here, has not committed a crime and has not resisted arrest, that its police officers should only use reasonable force to effectuate an arrest and the arrest should be based on probable cause.
103. **THE CITY OF NEW YORK** was negligent by failing to implement a policy with its Police Department and instruct police officers who, absent the consent of the Plaintiff (or similarly situated individuals) or without the possession of a court authorized arrest a search warrant, said police officers

of the City of New York are not to arrest individuals such as the Plaintiff here where probable cause is lacking and the use of force should only be reasonable when an individual resists arrest and should not be used where a criminal defendant is not resisting arrest.

104. **THE CITY OF NEW YORK** is negligent due to its failure to implement a policy with its Police Department or actively enforce the law, if any of the following are lacking:
1. Probable cause must be present before an individual such as the Plaintiff herein can be arrested.
 2. Excessive force cannot be used against an individual who does not physically resist arrest.
 3. An individual who sustains physical injury at the hands of the police during the arrest process should receive prompt medical attention.
105. The foregoing acts, omissions and systemic failures are customs and policies of the **CITY OF NEW YORK** which caused the police officers to falsely arrest, maliciously prosecute, seize illegally and search the Plaintiff commit an assault/battery to his person and denied him prompt medical attention under the belief that they would suffer no disciplinary actions for their failure to take proper or prudent steps in this case.

AS AND FOR AN TWENTY-FIFTH CAUSE OF ACTION

106. Plaintiff repeats, reiterates, and re-alleges all of the allegations contained in paragraphs "1" through "105" as it set forth at length herein.

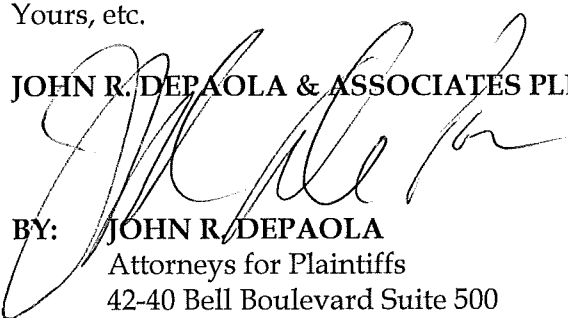
107. Defendant **CITY OF NEW YORK** was negligent in that prior to and at the time of the acts complained of herein, due to the prior history of the Police Officer Defendants, knew or should have known of the bad disposition of said Defendants or had knowledge of facts that would put a reasonably prudent employer on inquiry concerning their bad disposition and the fact that these officers were not suitable to be hired and employed by the **CITY OF NEW YORK** and that due to their lack of training, these officers should have had adequate supervision so that they would not arrest innocent individuals nor use excessive force during the arrest process.

WHEREFORE, Plaintiff demands judgment against the Defendants, together with the costs and disbursements of this action in the amount of damages greater than the jurisdictional limit of any lower court which otherwise would have jurisdiction, together with attorneys' fees and costs for bringing this case and punitive damages.

Dated: Bayside, New York
November 9, 2017

Yours, etc.

JOHN R. DEPAOLA & ASSOCIATES PLLC


BY: JOHN R. DEPAOLA
Attorneys for Plaintiffs
42-40 Bell Boulevard Suite 500
Bayside, New York 11361
(718) 281-0400

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No. _____

Purchased _____

-----X
MARIA CARABALLO, ALEXIS SANCHEZ AND
HERMES SANTIAGO,

VERIFICATION

Plaintiffs,

-against-

THE CITY OF NEW YORK, P.O. TATIANA CRUZ
OF NARCBX, SHIELD #400, TAX ID #950253, P.O.
CHRISTOPHER CHIN OF THE 46 PCT, SHIELD
#20543, TAX ID #958402, P.O. FAUSTO RAMIREZ
OF THE 46 PCT, SHIELD #10218, TAX ID #956787,
OTHER NEW YORK CITY POLICE OFFICERS ON
SUMMONS NUMBERS #2016SX049182,
#2016SX049183, #2016SX049022 #2016SX049219 AND
DOCKET NO. 2016BX036246 WHOSE NAMES ARE
NOT KNOWN AT THIS TIME N/H/A JOHN/JANE
DOE I-III, AS IT PERTAINS TO THE INCIDENT
THAT AROSE ON AUGUST 21, 2016 AND NO
OTHER,

Defendants.

-----X

I, JOHN R. DEPAOLA, an attorney admitted to practice in the courts of New York State, state that I am a member of the firm of JOHN R. DEPAOLA & ASSOCIATES PLLC, the attorneys of record for Plaintiffs in the within action; I have read the foregoing and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by Plaintiffs is because Plaintiffs reside outside the county where deponent maintains his office.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: Bayside, New York
November 9, 2017

JOHN R. DEPAOLA

Index No. :

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

MARIA CARABALLO, ALEXIS SANCHEZ AND HERMES SANTIAGO,

Plaintiffs

-against-

THE CITY OF NEW YORK, P.O. TATIANA CRUZ OF NARCB BX, SHIELD #400, TAX ID #950253, P.O. CHRISTOPHER CHIN OF THE 46 PCT, SHIELD #20543, TAX ID #958402, P.O. FAUSTO RAMIREZ OF THE 46 PCT, SHIELD #10218, TAX ID #956787, OTHER NEW YORK CITY POLICE OFFICERS ON SUMMONS NUMBERS #2016SX049182, #2016SX049183, #2016SX049022 #2016SX049219 AND DOCKET NO. 2016BX036246 WHOSE NAMES ARE NOT KNOWN AT THIS TIME N/H/A JOHN/JANE DOE I-III, AS IT PERTAINS TO THE INCIDENT THAT AROSE ON AUGUST 21, 2016 AND NO OTHER,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

JOHN R. DEPAOLA & ASSOCIATES PLLC
BY: JOHN R. DEPAOLA
Attorney for Plaintiff(s)
42-40 Bell Boulevard
Bayside, NY 11361
Tel. (718) 281-0400 / (718) 281-4000

To: CORPORATION COUNSEL OF NEW YORK CITY

Attorney(s) for Defendants

Service of a copy of the within is hereby admitted.

Dated _____

Attorney(s) for